

THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
GALVESTON DIVISION

IN RE DAVID LORENZA JOYNER

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CIVIL ACTION NO. G-06-549

**OPINION AND ORDER**

On September 5, 2006, David Lorenza Joyner filed his “ Motion to be Relieved of the Final Judgment.” In the Motion, Joyner appears to challenge this Court’ s application of the “ Three Strike Provision” of 28 U.S.C. §1915(g), in its Order of Dismissal entered in this cause on August 21, 2006. Plaintiff further asserts that “ he’ s been urinating blood since October of last year, and that Brad Livingston is condoning in him being denied adequate medical attention and has adopted policies/practices that are a ongoing immediate threat to Joyner’ s and all prisoners life.” Plaintiff further asserts “ Joyner’ s claims against Brad Livingston shows that Joyner has suffered serious physical injury and presently risk losing his life.”


Court records show that, in this district alone, Joyner has been a Plaintiff in at least twelve cases which have been dismissed as frivolous and has been warned numerous time by the United States Court of Appeals for the Fifth Circuit. In Joyner v. Klevenhagen, 4:94cv1880 (Order of Dismissal, December 9, 1995), Joyner was warned that he “ may not continue to abuse the judicial system by filing voluminous, frivolous lawsuits indefinitely without facing consequences such as a bar to future free litigation or monetary fines.”

It is, therefore, the **FINDING** of this Court that Joyner' s original complaint, filed on August 14, 2006, and his current filing, were not brought in a good faith effort to correct serious violations of his constitutional rights and that his allegations do not establish that he is currently in imminent danger of suffering physical injury.

It is, therefore, the **ORDER** of this Court that Joyner' s “ Motion to be Relieved of the Final Judgment” (Instrument no. 7) is **DENIED**.

Joyner is hereby given **NOTICE** that if he intends to pursue an appeal of this Order he must pay the **\$455.00** appellate filing fee, **IN FULL**, or seek permission to proceed *in forma pauperis* directly from the United States Court of Appeals for the Fifth Circuit.

**DONE** at Galveston, Texas, this 13<sup>th</sup> day of September, 2006.

  
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Samuel B. Kent  
United States District Judge